

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL JOHN KOZAK,  
Petitioner,  
  
v.  
PEOPLE OF THE STATE OF  
CALIFORNIA,  
Respondent.

Case No. 13-cv-03338-JST (PR)

**ORDER REGARDING IN FORMA  
PAUPERIS MOTION; AND  
DISMISSING PETITION WITH LEAVE  
TO AMEND**

Re: Dkt. No. 5

Petitioner seeks federal habeas relief from his state convictions. Petitioner, however, did not use this Court's habeas petition form, and the one he has submitted is not comprehensible. Specifically, it is unclear exactly what petitioner is challenging and whether he has exhausted his claims in state court. Therefore, the Court cannot fairly evaluate the petition in its present state. Accordingly, the petition is **DISMISSED WITH LEAVE TO AMEND**. A blank habeas corpus form will be mailed to petitioner. Petitioner shall file a petition using such form no later than **twenty-eight (28) days** from the date this order is filed. The petition must include the caption and civil case number used in this order (C 13-3338 JST (PR)) and the words **AMENDED PETITION** on the first page. Because an amended petition completely replaces the previous petition, petitioner must include in his first amended petition all the claims he wishes to present. Petitioner may not incorporate material from the prior petition by reference.

Petitioner also filed an in forma pauperis ("IFP") application. However, the attached Certificate of Funds shows that he has sufficient funds to pay the \$5.00 filing fee for a habeas action. Further, petitioner attached to his IFP application a "Trust Account Withdrawal Order" dated August 20, 2013. The withdrawal order is a prison form used to request that a check be sent to an outside recipient. In his form petitioner asks for a five-dollar withdrawal, which he says is

1 for an "in forma pauperis" fee, and asks that it be sent to this Court. The form itself evidently was  
2 sent to the Court in error, rather than a check. There is no way to know whose fault this is, but in  
3 any case petitioner still has not paid the fee. Accordingly, petitioner shall pay the requisite \$5.00  
4 filing fee in this action no later than **twenty-eight (28) days** from the date of this order. He shall  
5 include with his payment a clear indication that it is for the above-referenced case number, C 13-  
6 3338 JST (PR).

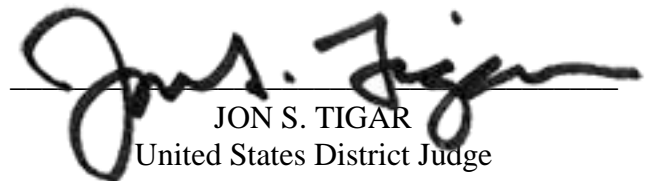
7 **Failure to pay the filing fee or file an amended petition within the twenty-eight-day**  
8 **deadline shall result in dismissal of this action.**

9 The Clerk of the Court shall send petitioner a blank habeas corpus form along with his  
10 copy of this order.

11 This order terminates Docket No. 5.

12 **IT IS SO ORDERED.**

13 Dated: October 28, 2013

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16 JON S. TIGAR  
17 United States District Judge  
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